

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2451-2021 (O&M)

Date of decision: January 19, 2023

Asha Rani @ Asha Devi

...Petitioner

versus

Kaushalya Devi and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Onkar Rai, Advocate for the petitioner.

Mr. Rahul Sharma, Advocate
for respondents No.1 to 4 & 6.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the impugned order dated 27.08.2021 (Annexure P-6) passed by learned Civil Judge (Junior Division), Hoshiarpur whereby in execution proceedings instituted by decree holder/respondents herein for execution of decree of mandatory injunction, objections filed by Judgment Debtor/petitioner were dismissed; application for recalling the order vide which warrants of possession against JD/petitioner have been issued, was also dismissed and warrants of possession were issued.

2. I have heard learned counsel for the petitioner and gone through the case file.

3. Impugned order is premised, *inter alia*, on the following reasoning:

“Heard on the objections filed by JD/respondent. It is averred in the objections that the defendant/JD has already

vacated the room in compliance with the judgment and decree under execution and that the plaintiff/decreed holder is claiming the possession of another property which is not part of the relief granted to them vide judgment and decree under execution. The execution has already been satisfied as the room marked ABCD has been vacated as shown in Ex.P1. Alongwith the objections the JD has already filed application for recalling the order vide which the warrants of possession against JD/applicant has been issued on the same lines as that of objection petition.

In reply to the application, Ld. Counsel for decreed holder submitted that the JDs have failed upto Hon'ble High Court where the JD has been directed to vacate the premises in dispute within six months but the JDs have not complied with the orders of Hon'ble High Court. It is further submitted that the JD has concealed the real facts that she was in possession over one room only which is in dispute and except that room she is not in possession of any other part of house of decreed holder. It is further submitted that the JD has not vacated the possession of the room which was given on rent to her till date and has put lock on the room in question to deprive the decreed holders from getting the possession of the same.

Perusal of the file shows that vide judgment dated 03.02.2018, suit of the plaintiff/decreed holder was decreed and defendant/JD was directed to handover the vacant possession of the rooms within two months from passing of the judgment and decree. Thereafter vide judgment dated 25.03.2019 the appeal filed by JD/defendant was dismissed. No order of stay has been placed on file by decreed holder from Hon'ble High Court. No ground is made out for recalling the warrant of possession which were issued by my Ld. Predecessor Court. Accordingly the objections filed by JD being devoid of any merit stands dismissed. Similarly the application for recalling warrants also stands dismissed.

Perusal of the file shows that police help has already been received in the present case, therefore, warrants of possession are ordered to be issued for 25.10.2021 on filing of warrant fee. Police authorities to comply. Adjourned to 25.10.2021 for awaiting report.”

4. Vide para 19 of the judgment and body of the decree sheet (Annexure P-1) the judgment debtor was directed to hand over the vacant possession of the rooms meaning more than one room.

5. Having heard the arguments of learned counsel for the petitioner,

I find no room for interference in the aforesaid valid reasons recorded by the

Court below.

6. No material irregularity in law or procedure has been committed by the learned Court below, so as to exercise extraordinary revisional jurisdiction herein.
7. In the premise, revision petition is dismissed.
8. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

January 19, 2023
mahavir

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No